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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,459	05/02/2001	Yuji Kawaguchi	0445-0300P	4434

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EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/846,459

Applicant(s)

KAWAGUCHI ET AL.

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 7 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-802)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 April 2004 has been entered. Claims 1 and 3-10 are pending in the application. Claim 7 is withdrawn from further consideration as being drawn to a non-elected invention.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1, 3, 5, 6, 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (US 5,314,114) in view of Stone (US 3,963,173), Giblin et al (US 5,320,279), and Pritchard et al (GB 2 264 287 A, provided by applicant).

Regarding claim 1, Stone '114 discloses a paper container (10) having a hexahedral configuration (see Figure 4) and comprising a container main body (26); a lid member (28) attached to a back side edge part (29) of an upper end open surface of the container main body and having an upper surface lid part (12), a front surface lid part (57), and a pair of side lid parts (as shown, Figure 4); an inner carton part (40, 42,

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44) with concave cutout part (50) formed on a front board (42); and severance guide line (24) extending obliquely downward along a pair of side boards and extending along the front board under the cutout part. The container of Stone '114 is sized as claimed by the applicant and is capable of storing an agglomerated detergent (see for example, Col. 1, line 29).

Stone '114 does not disclose the severance guide line extending from opposite ends of the connecting ridge line or a concave cutout part completely removed from the front board of the inner carton part.

Stone '173 discloses a container (Figure 19) with an inner carton part (184) having a concave cutout part (186) completely removed from front board (184) and severance guide line (222, 206) extending from opposite ends of the connecting ridge line (as shown, Figure 19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Stone '114 with a lid and cutout structure as taught by Stone '173 in order to provide ready access to the contents (see for example, Stone '173, Col. 1, ll. 41-45).

Stone '114-Stone '173 does not disclose an inner carton part being mounted on an inner side of the container, which the examiner interprets as meaning separate from the container.

Giblin et al discloses a container with an inner carton part that may be separate from the container (Col. 2, ll. 18-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container of Stone '114-Stone '173 with an inner carton part that is separate as taught by Giblin et al in order to

allow for the printing of separate material on the inner carton part. It has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman, 168 USPQ 177, 179.

As to the upper half of the front board being above the severance guide line, Pritchard et al discloses that it was known in the art at the time the invention was made to have a deep opening and a severance guide line positioned such that the upper half of the front board is above the severance guide line (see Figure 1). It would have been an obvious matter of design choice, dependent upon the desired articles to be contained, to provide the container of Stone-Stone-Giblin with a severance guide line positioned such that the upper half of the front board is above the severance guide line, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

As to claim 3, the container of Stone-Stone-Giblin-Pritchard discloses lock parts (Stone '173, 188, 190).

As to claim 5, the container of Stone-Stone-Giblin-Pritchard is capable of storing a packaged detergent; such a limitation constitutes an intended use.

As to claim 6, the container of Stone-Stone-Giblin-Pritchard discloses a container formed of a moisture proof material (Giblin, Col. 2, ll. 25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include this feature in the container of Stone-Stone-Giblin-Pritchard to protect the packaged

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detergent during storage. The container of Stone-Stone-Giblin-Pritchard is capable of storing a sheet-like detergent; such a limitation constitutes an intended use.

As to claim 8, the container of Stone-Stone-Giblin-Pritchard discloses a unitary front board (Stone '173, 184).

As to claim 9, the container of Stone-Stone-Giblin-Pritchard discloses a separate inner carton part (see for example, Giblin et al, Col. 2, ll. 18-20).

As to claim 10, the container of Stone-Stone-Giblin-Pritchard is capable of storing a sheet-like detergent contained in a multi-layered manner; such a limitation constitutes an intended use.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone-Stone-Giblin-Pritchard as applied to claim 1 above, and further in view of Wood et al (US 5,985,772).

The container of Stone-Stone-Giblin-Pritchard, as applied to claim 1 above, meets all limitations claimed by the applicant except for the paper material formed of a paper baser material, a printed layer, an outer colored film, and an inner film.

Wood et al discloses a packaging material comprising a paper base material (240), a printed layer (220), an outer colored film (210), and an inner film (210). The outer film (210) and inner film (210) of Wood et al consists of an aqueous borne acrylic coating having a natural color. The coatings can also be pigmented (Col. 8, ll. 16-18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to fabricate the container of Stone-Stone-Giblin-Pritchard with a packaging

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material as taught by Wood et al in order to protect the paper base material and printed matter from damage.

***Response to Arguments***

5. Applicant's arguments filed 13 April 2004 have been fully considered but they are not persuasive.

6. In response to the applicant's argument that the opening of Stone '173 is too shallow, the examiner notes that the articles are not positively recited in the claim. Depending on the articles retained, the opening of Stone '173 is capable of allowing removal of the contents from the front of the box.

7. In response to the applicant's arguments that Stone '173 does not disclose a severance guide line, the examiner asserts that a perforated line is a severance guide line. Further, Pritchard et al discloses a tear tape which functions as claimed by the applicant.

8. Applicant's arguments with respect to the new limitation of the upper half of the front board being above the severance guide line, are addressed in the rejection presented above.

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the sheet-like detergent arranged in a multi-layered arrangement) are not positively recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

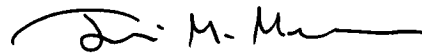


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory Pickett  
Examiner  
9 July 2004



JILA M. MOHANDESI  
PRIMARY EXAMINER